IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6658 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHAGWANBHAI R SOLANKI

Versus

BILLIMORA NAGARPALIKA

Appearance:

1. Special Civil Application No. 6658 of 1989

MR AR MAJMUDAR for Petitioner No. 1

MR YV SHAH for Respondent No. 1

NOTICE SERVED for Respondents No. 2-3

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 17/01/2002

ORAL JUDGEMENT

By way of this petition, the petitioner has challenged the impugned order of retrenchment dated

10.3.1989 (Annexure-G) and further prayed that the respondents be directed to reinstate the petitioner on his original post with full backwages.

This matter is listed at Sr. No.4 on today's special final hearing board. Endorsement shows that today it is listed for the 41st time. When it was called out about 12.15 p.m. learned counsel Shri Majmudar for the petitioner was not present. However, Shri Y.V.Shah appearing for respondent Nos. 1 and 2-Billimora Nagarpalika and Shri L.R.Pujari, learned AGP for respondent No.3 for respondent-State were present. Mr.Shah stated at the Bar that on previous occasions, Mr.Majmudar, after arguing the matter for some time before different Hon'ble Judges and got the matter adjourned when he found that courts were not inclined and this is high time that today the matter be finally heard and disposed of on merits. Considering this fact, the matter is decided in absence of the learned counsel for the petitioner.

The impugned order of retrenchment (Annexure-G) is more than clear. From the impugned order it is clear that earlier one Ramilaben was relieved from service as Safai Kamdar. She had gone to the Labour Court and as per the award passed by the Labour Court she was required to be reinstated, therefore, the present petitioner who was appointed in her place has to be retrenched from service and accordingly the impugned order was passed. So many disputed questions of facts have been raised in the petition which cannot be gone into by this court in its writ jurisdiction. For that the petitioner has to approach the competent labour court. However, on merits, looking to the impugned order at Annexure-G it cannot be said that the impugned order was passed in violation of any provisions of law or in violation of principles of natural justice. It was innocuous order, which was required to be passed in view of the award passed by the labour court in favour of another employee-Ramilaben.

In view of the above discussion, this petition fails and is dismissed. Rule discharged with no order as to costs.

Before I sign the above order, Mr.Majmudar came in the second sitting and requested that the petitioner wanted to make representation for taking him back in service without backwages but due to pendency of this petition he could not make such representation. If it is permissible under the law, then the petitioner can certainly make such representation.

(B.J.Shethna, J.)

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